

**COMMONWEALTH OF MASSACHUSETTS  
QUARTERLY CERTIFICATE OF ESCROW DEPOSIT (M.G.L. c. 94F, §4(e))  
(February 2008)**

**GENERAL INSTRUCTIONS FOR COMPLETION OF  
THE QUARTERLY CERTIFICATE OF ESCROW DEPOSIT**

**Who is required to make escrow payments and file this Quarterly Certificate of Escrow Deposit?**

Any tobacco product manufacturer (TPM) which:

- (1) has satisfied applicable statutory and regulatory requirements and has been approved by the Commonwealth of Massachusetts for placement on the Massachusetts TPM Directory; and
- (2) sells cigarettes or RYO within the Commonwealth of Massachusetts (whether directly or through any distributor, retailer, or similar intermediary); and
- (3) has **not** become a participating manufacturer (PM) in the tobacco Master Settlement Agreement (i.e., is a nonparticipating manufacturer (NPM)); and
- (4) is required by the Attorney General to make quarterly escrow payments pursuant to M.G.L. c. 94F, §4(e), 830 CMR 94E.1.1(6)(d), and 940 CMR 24.08.

**When are quarterly escrow payments due?**

You must deposit all quarterly escrow payments into your qualified escrow fund on or before the 30th day following the end of the quarter (e.g., April 30, 2008; July 30, 2008; October 30, 2008; and January 30, 2009).

**What is the deadline for filing this Quarterly Certificate of Escrow Deposit?**

This Quarterly Certificate of Escrow Deposit is to be filed quarterly, and must be **received** by the Commonwealth of Massachusetts on or before the 10th day after the deadline for making quarterly escrow deposits (e.g., May 10, 2008; August 9, 2008; November 9, 2008; and February 9, 2009).

**Does filing this Quarterly Certificate of Escrow Deposit excuse a TPM from filing its Annual or the required Supplemental TPM Certifications?**

No. You must also file an annual TPM Certification on or before April 30 each year. The annual form is **in addition to** this form.

All TPMs must file a **Supplemental TPM Certification** no later than 30 days prior to any change regarding its Brand Families. In all other circumstances, a Supplemental TPM Certification must be filed immediately upon receipt of new information that makes the current TPM Certification incorrect.

You can obtain the Annual and Supplemental TPM Certification form with Instructions at [www.mass.gov/ago](http://www.mass.gov/ago).

**Where must this Quarterly Certificate of Escrow Deposit be filed?**

The original Quarterly Certificate of Escrow Deposit is to be delivered to the Attorney General and a copy to the Commissioner of Revenue. Please mail the Quarterly Certificate of Escrow Deposit and all required attachments to the following addresses:

**Original:**

Tobacco Enforcement  
Office of Attorney General Martha Coakley  
One Ashburton Place  
Boston, MA 02108-1598

**Copy:**

TPM Directory  
Rulings and Regulations Bureau  
Department of Revenue  
P.O. Box 9566  
Boston, MA 02114-9566

**Language:**

The Quarterly Certificate of Escrow Deposit and all other required forms must be completed in English. For all attachments required by the Quarterly Certificate, if the original document is in a language other than English, a true and correct translation into English must be attached in addition to the original.

**Complete Certification:**

A Quarterly Certificate of Escrow Deposit may not be approved if information appears to be missing. Do not leave any fields blank. Attach additional sheets if necessary, indicating the field to which they apply. A Quarterly Certificate of Escrow Deposit is not complete unless the account ledger from your financial institution is provided directly to the Office of the Attorney General verifying the escrow deposit, and documents substantiating RYO units sold are submitted.

**Additional Information and Documents:**

The Attorney General may request additional information and documents in reviewing the Quarterly Certificate of Escrow Deposit. A failure or refusal to provide such information or documents may be grounds for removal from the TPM Directory.

**Statements under Penalties of Perjury:**

Statements made in the Quarterly Certificate of Escrow Deposit are made under penalties of perjury. Any misrepresentation in the Quarterly Certificate of Escrow Deposit also may be grounds for removal from the TPM Directory.

**Who Must Sign the Quarterly Certificate of Escrow Deposit:**

The Quarterly Certificate of Escrow Deposit must be signed by an authorized officer of the Company.

**Record Retention:**

The NPM must maintain all invoices and documentation of sales and other such information it relied on in preparing its Quarterly Certificate of Escrow Deposit for a period of five years, unless otherwise required by law to maintain them for a longer period.

**Regulations:**

Chapter 94F of the General Laws authorizes the Commissioner of Revenue and the Attorney General to promulgate regulations to effectuate its purposes. The Commissioner of Revenue has promulgated a regulation at 830 CMR 94E.00. The Attorney General has promulgated a regulation at 940 CMR 24.00. TPMs must comply with the applicable provisions of the regulations.

**DEFINITIONS**

(a) **“Brand Family”** means all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors including, but not limited to, “menthol,” “lights,” “kings,” and “100s,” and includes any use of a brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes.

(b) **“Cigarette”** has the same meaning as in M.G.L. c. 94E and M.G.L. c. 94F, and includes “roll-your-own” or “RYO” (0.09 ounces of RYO constituting one individual cigarette).

- (c) **“Company”** means the Tobacco Product Manufacturer that is submitting the Quarterly Certificate of Escrow Deposit.
- (d) **“Master Settlement Agreement,”** or **“MSA,”** is defined in M.G.L. c. 94E.
- (e) **“Nonparticipating Manufacturer,”** or **“NPM,”** means a Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (f) **“Participating Manufacturer,”** or **“PM,”** is defined in the MSA, including any amendments to the MSA.
- (g) **“Person”** means an individual, partnership, committee, association, corporation, or any other organization, or any other organization or group of persons.
- (h) **“Qualified Escrow Fund”** is defined in M.G.L. c. 94E.
- (i) **“Tobacco Product Manufacturer,”** or **“TPM,”** is defined in M.G.L. c. 94E.
- (j) **“TPM Directory”** means the public directory of Tobacco Product Manufacturers, published by the Commissioner of Revenue, that have provided TPM Certifications conforming to the requirements of M.G.L. c. 94F and approved by the Attorney General, and the Brand Families listed in such TPM Certifications.
- (k) **“Units Sold,”** defined in M.G.L. c. 94E, means the number of individual cigarettes sold in the Commonwealth by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer or similar intermediary during the year in question, as measured by excise collected by the Commonwealth on packs bearing the excise stamp of the Commonwealth, or roll-your-own tobacco containers. The Department of Revenue shall promulgate such regulations as are necessary to ascertain the amount of state excise paid on the cigarettes of such tobacco product manufacturer for each year.

## **SPECIFIC INSTRUCTIONS FOR COMPLETION OF THE QUARTERLY CERTIFICATE OF ESCROW DEPOSIT**

### **PART I: MANUFACTURER INFORMATION**

Complete this Part in its entirety.

### **PART II: QUARTER BEING REPORTED**

Check-off the reporting period for which the escrow deposit is being made.

### **PART III: UNITS SOLD FOR THE QUARTER BEING REPORTED**

List all Brand Families and, for each Brand Family, state the number of Units Sold in Massachusetts for the quarter being reported (including RYO at 0.09 ounces per Unit Sold). List only those Brand Families that the Company directly and physically manufactures. Indicate whether each Brand Family is a Cigarette or RYO by checking-off the appropriate box. Complete the calculation of the escrow amount. Provide documentation substantiating the reported RYO units sold.

#### **PART IV: ADDITIONAL QUARTERLY COMPLIANCE INFORMATION**

For each question A, B, C, D, E, F, and G, check-off either “Yes (True)” or “No (Not true).” If the answer to A, B, C, D, E, F, and/or G is “No (Not true),” explain the reason or basis for this response and provide supporting documentation, where appropriate.

#### **PART V: MAILING INSTRUCTIONS**

Mail the original Quarterly Certificate of Escrow Deposit to the Office of the Attorney General and a copy of the Quarterly Certificate of Escrow Deposit to the Department of Revenue.

#### **PART VI: DECLARATION, ACKNOWLEDGMENT, AND SIGNATURE**

The Quarterly Certificate of Escrow Deposit must be signed by an authorized officer of the TPM, before a notary public.

#### **ADDITIONAL INFORMATION AND DOCUMENTATION**

Additional information and documentation may be requested, including documentation relating to the Company’s consent to the jurisdiction of the Superior Court of Massachusetts and the Company’s waiver of any sovereign immunity defense for purposes of enforcement actions that the Attorney General may bring under M.G.L. c. 94E and/or M.G.L. c. 94F.